

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

MATTHEW LEE JOHNSON,
Plaintiff,

V.

BRYAN COLLIER, Executive Director,
Texas Department of Criminal Justice,
Huntsville, Texas

ERIC GUERRERO, Director, Texas
Department of Criminal Justice,
Correctional Institutions
Division, Huntsville, Texas

KELLY STRONG, Warden, Texas
Department of Criminal Justice,
Huntsville Unit, Huntsville, Texas

Defendants.

Civil No. 4:25-cv-2066

*****CAPITAL CASE*****

**MOTION FOR STAY OF EXECUTION
PENDING DISPOSITION OF PLAINTIFF'S COMPLAINT
FILED PURSUANT TO 42 U.S.C. §1983**

**MR. JOHNSON IS SCHEDULED TO BE EXECUTED ON
TUESDAY, MAY 20, 2025, AFTER 6:00 PM**

TO THE UNITED STATES DISTRICT COURT JUDGE:

Plaintiff Matthew Lee Johnson respectfully requests that this Court grant him a stay of execution pending the resolution of his

complaint filed pursuant to 42 U.S.C. § 1983. If Defendants execute Plaintiff on May 20, 2025, it will be pursuant to an unlawful order. As explained in further detail in the Complaint filed contemporaneously with this Motion, the order is unlawful because it was issued in response to a letter from the Attorney General, when the Attorney General did not represent the State's interests in the state trial court. Allowing Johnson's execution to proceed pursuant to this unlawful order would violate his rights pursuant to the Fourteenth Amendment's Due Process and Equal Protection clauses.

Mr. Johnson is entitled to a stay of execution if this Court finds he has established: (1) a likelihood of success on the merits; (2) a substantial threat of irreparable injury; (3) that the threatened injury outweighs any harm that will result if the stay is granted; and (4) that the stay will not disserve the public interest. *Sells v. Livingston*, 750 F.3d 478, 480-81 (5th Cir. 2014); *see also Hill v. McDonough*, 547 U.S. 573, 584 (2006); *Barefoot v. Estelle*, 463 U.S. 880, 895-96 (1983).

There is a likelihood that this Court will find that Plaintiff's execution on May 20, 2025, pursuant to Defendants' policy would run

afoul of Johnson's rights pursuant to the Fourteenth Amendment. If a stay is not granted, Johnson will suffer an irreparable injury; he will be executed pursuant to an unlawful order. This injury outweighs the costs, if any, incurred by the Defendants if they are forced to reschedule Johnson's execution for a later date. Accordingly, Johnson is entitled to a stay of execution so that this Court can consider his complaint filed pursuant to 42 U.S.C. § 1983.

Respectfully submitted,

/s/ David R. Dow

/s/ Jeffrey R. Newberry

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Counsel for Matthew Lee Johnson

Certificate of Service

I certify that on May 7, 2025, a true and correct copy of the above pleading was delivered via email to:

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s/ David R. Dow

David R. Dow